

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MY HEALTH, INC., ET AL.

v.

CARDIOCOM, LLC, ET AL.

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§Case No. 2:13-CV-136-JRG-RSP
LEAD CASE

DOCKET CONTROL ORDER

In accordance with the scheduling conference held in this case, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

January 5, 2015	*Jury Selection – 9:00 a.m. in Marshall, Texas
December 22, 2014	*Pretrial Conference – 1:30 p.m. in Marshall, Texas
December 17, 2014	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
December 15, 2014	*File Joint Pretrial Order, Proposed Jury Instructions, Proposed Verdict Form, and Responses to Motions <i>in Limine</i>
December 8, 2014	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter
December 1, 2014	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
December 1, 2014	Serve Objections to Rebuttal Pretrial Disclosures

November 24, 2014	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
November 10, 2014	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
October 20, 2014	<p>*File Dispositive Motions or Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)</p> <p>No dispositive motion or motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.</p>
October 13, 2014	Deadline to Complete Expert Discovery
September 29, 2014	Serve Disclosures for Rebuttal Expert Witnesses
September 1, 2014	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
September 1, 2014	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
August 18, 2014	*Deadline to File Letter Briefs Regarding Dispositive Motions
June 10, 2014	Deadline to Complete Mediation
June 3, 2014	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
May 13, 2014	*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas
April 29, 2014	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
April 22, 2014	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
April 3, 2014	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
April 1, 2014	<p>Deadline to Substantially Complete Document Production and Exchange Privilege Logs</p> <p>Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.</p>
March 11, 2014	File Response to Amended Pleadings
March 12, 2014	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)

March 11, 2014	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
February 25, 2014	*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
February 18, 2014	Comply with P.R. 4-3 (Joint Claim Construction Statement)
January 28, 2014	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
January 7, 2014	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
October 21, 2013	Comply with P.R. 3-3 & 3-4 (Invalidity Contentions)
September 12, 2013	*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures)
September 19, 2013	Add additional parties
August 22, 2013	*File Proposed Docket Control Order, Proposed Discovery Order, and Notice of Mediator
August 15, 2013	* File Notice of Mediator
July 25, 2013	Comply with P.R. 3-1 & 3-2 (Infringement Contentions)

(*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

ADDITIONAL REQUIREMENTS

Notice of Mediator: The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

Summary Judgment Motions: Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than the deadline for filing letter briefs. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted. Letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.

Indefiniteness: In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

Form of the Pretrial Order and Pretrial Disclosures: The Court will issue a standing order governing the form of the pretrial order and pretrial disclosures at least four months prior to trial. The parties may obtain a copy of the order from the Court's website at that time.

Motions for Continuance: The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

IT IS SO ORDERED.

SIGNED this 29th day of August, 2013.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE